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ROBERT A. SALTZBERG
MORRISON & FOERSTER LLP
425 MARKER STREET
SAN FRANCISCO, CA 94105

EXAMINER

BAYARD, DJENANE M

ART UNIT	PAPER NUMBER
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2141

DATE MAILED: 08/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/001,735

Applicant(s)

TSAO, SHENG (TED) TAI

Examiner

Djenane M. Bayard

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 16 May 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. This is in response to amendment filed on 5/16/05 in which claims 1-27 are pending.

Double Patenting

2. As per the double patenting rejection, Applicant argues that "the double patenting rejection only applies to ser. No. 10/116511 and not the captioned application ser. No. 10/001735 because ser. No. 10/116511 was filed on April 5, 2002, which is after the filing date of ser. No. 10/001735 on Oct 23 2001". However, when "*the examiner becomes aware of two copending applications filed by the same inventive entity, or by different inventive entities having a common inventor, and/or by a common assignee that would raise an issue of double patenting if one of the applications become a patent.... the courts have sanctioned the practice of making applicant aware of the potential double patenting problem if one of the applications became a patent by permitting the examiner to make a provisional rejection on the ground of double patenting. In re Mott, 539 F.2d 1291, 190 USPQ 536 (CCPA1976); In re Wetterau, 356 F.2d 556, 148 USPQ 499 (CCPA 1966). The "provisional" double patenting rejection should continue to be made by the examiner in each application as long as there are conflicting claims in more than one application ...*" (See MPEP 804, Double Patenting). Therefore, the double patent rejection stand as stated in the previous office action.

3. A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefor ..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

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4. A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer cannot overcome a double patenting rejection based upon 35 U.S.C. 101.

5. Claims 1-17 and 21-24 are provisionally rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 1-17 and 24-27 of copending Application No. 10/116,511. This is a provisional double patenting rejection since the conflicting claims have not in fact been patented.

Affidavit

6. The Affidavit filed on 4/21/05 under 37 CFR 1.131 has been considered but is ineffective to overcome the Patel reference.

Substance

Applicant is attempting to show conception. However, the evidence submitted is insufficient to establish conception.

Conception

I. The evidence submitted is insufficient to establish conception from a date prior to the date of reduction to practice of the U.S. Patent Application Publication No. 2003/0033308 to Patel. *The affidavit or declaration and exhibits must clearly explain which facts or data applicant is relying on to show completion of his or her invention prior to the particular date. Vague and general statements in broad terms about what the exhibits describe along with a general assertion that the exhibits describe a reduction to practice "amounts essentially to mere*

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pleading, unsupported by proof or a showing of facts” and, thus, does not satisfy the requirements of 37 CFR 1.131(b). In re Borkowski, 505 F.2d 713, 184 USPQ 29 (CCPA 1974). Applicant must give a clear explanation of the exhibits pointing out exactly what facts are established and relied on by applicant. 505 F.2d at 718-19, 184 USPQ at 33. See also In re Harry, 333 F.2d 920, 142 USPQ 164 (CCPA 1964) (Affidavit “asserts that facts exist but does not tell what they are or when they occurred.”) (See MPEP 7.15.07).

The evidence submitted is insufficient to establish a conception of the invention prior to the effective date of the reference. While conception is the mental part of the inventive act, it must be capable of proof, such as by demonstrative evidence or by a complete disclosure to another. Conception is more than a vague idea of how to solve a problem. The requisite means themselves and their interaction must also be comprehended. See Mergenthaler v. Scudder, 1897 C.D. 724, 81 O.G. 1417 (D.C. Cir. 1897). As evidence of conception, the exhibit does not provide a clear explanation. The attachment failed to demonstrate conception of the claimed invention.

Diligence

II. The evidence submitted is insufficient to establish diligence from a date prior to the date of reduction to practice of the U.S. Patent Application Publication No. 2003/0033308 to Patel reference. *An inventor is either diligent at a given time or he is not diligent; there are no degrees of diligence. Under 37 CFR 1.131, the critical period in which diligence must be shown begins just prior to the effective date of the reference or activity and ends with the date of a reduction to practice, either actual or constructive (i.e., filing a United States patent application).*

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Where conception occurs prior to the date of the reference, but reduction to practice is afterward, it is not enough merely to allege that applicant or patent owner had been diligent. Rather, applicant must show evidence of facts establishing diligence. (See MPEP 715.07 (a)).

As evidence of diligence, the statement “ I worked diligently with a patent attorney in order to file the subject application on May 31, 2001” does not provide a satisfactory evidence of facts establishing diligence.

Conclusion

III. In conclusion, the showing of facts is not sufficient to show:

(A) conception of the invention prior to the effective date of the reference coupled with due diligence from prior to the reference date to a subsequent (actual) reduction to practice; or

(C) conception of the invention prior to the effective date of the reference coupled with due diligence from prior to the reference date to the filing date of the application (constructive reduction to practice).

Applicant is reminded that the burden is on the applicant to show evidence of conception, diligence and actual reduction to practice. Furthermore, Applicant is required to map the claimed limitation with the exhibit presented as evidence.

Response to Arguments

7. Applicant's arguments have been fully considered but they are not persuasive. Therefore, the rejection stand as stated in the previous office action and this case is made **FINAL**.

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a) As per claim 1, 9 and 21, Applicant argues that “Nolan does not disclose providing multiple network storage (NAS) servers, and storing content files on each NAS server for access by one or more clients”. However, Nolan clearly teaches “ a plurality of interconnected storage server” (See col. 6, line 50). It is well known to one with ordinary skill in the art that (NAS) server provides content files to be accessed by clients. To support this argument, Nolan clearly teaches “ a storage area network is optimized to provide high bandwidth and high throughput storage for client computers such as file servers, web servers and user computers” (See col. 4, line 67 and col. 5 lines 1-2). Furthermore, Applicant argues that the client request is for a content file without the need to identify the specific NAS server in which the content file is stored. However, Nolan clearly teaches wherein “ the client makes the request for a content file and select on the NAS servers that stores the requested content file” as cited in the claimed limitations. Nolan teaches “ storage transaction are received over one of the connection options 130. Storage transaction include read and write as well as status inquiries” (See col. 8, lines 36-40). Furthermore, when reading the claimed limitation in light of the specification, the Applicant’s argument is moot. The specification teaches wherein “ the, management controller 14 maintains in the NAS list 15, a List of NAS servers 12, list of content files on each NAS server 12, and list of clients currently mapped/assigned to each NAS server 12 for streaming (step 56). Upon receiving a client request for a content file (step 58), an attempt is made to identify from the NAS List 15, one or more NAS servers 12 that store the requested content file step 60) (See specification, page 10, lines 1-7). Thus, specifically identifying the NAS server in which the content file is stored.

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b) Furthermore, Applicant argues that Patel fails to teach “selecting one of the NAS servers that stores the requested content file, establishing a data stream between the client and the selected NAS server; and providing the requested content file from the selected NAS to the requesting client via the data stream independent of other NAS servers. However, Patel clearly teaches wherein “ the smart storage unit 0 receives the request for the file /DFSR/movies/comedy/mymovie.movie and determines from its root metadata data structure (for the root directory /DFSR) that the metadata data structure for the subdirectory movies is stored with smart storage unit 2. In event D, smart storage unit 0 sends a request to smart storage unit 2 requesting the location of the metadata data structure for the subdirectory comedy. In event E, smart storage unit 0 receives information that the metadata data structure for the subdirectory comedy is stored with smart storage unit 3. In event F, smart storage unit 0 sends a request to smart storage unit 3 requesting the location of the metadata data structure for the file mymovie.movie. In event G, smart storage unit 0 receives information that the metadata data structure for the file mymovie.movie is stored with smart storage unit 0. Smart storage unit 0 then retrieves the metadata data structure for the file mymovie.movie from local storage. From the metadata data structure, smart storage unit 0 retrieves the data location table for mymovie.movie which stores the location of each block of data in the file. Smart storage unit 0 then uses the data location table information to begin retrieving locally stored blocks and sending requests for data stored with other smart storage units” (See page 4 and 5, paragraphs [0060-0063]).

c) Applicant argues that the motivation cited by the Office for modifying Nolan according to Patel, is not suggested by the references themselves. However, Patel (page 1, paragraph

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[0008] cites “The intelligent distributed file system advantageously enables the storing of file data among a set of smart storage units which are accessed as a single file system. The intelligent distributed file system advantageously utilizes a metadata data structure to track and manage detailed information about each file, including, for example, the device and block locations of the file's data blocks, to permit different levels of replication and/or redundancy within a single file system, to facilitate the change of redundancy parameters, to provide high-level protection for metadata, to replicate and move data in real-time, and so forth.”

d) As per claims 4, 16 and 24, Applicant argues that Mukherjee fails to “ detect fault in an NAS server currently providing requested content file to a client” and “ identify a spare NAS server storing a requested content file that was stored in a faulty server. However, Mukherjee clearly teaches “when a server fails, the system gracefully degrade as the load of the faulty server is shifted to the other servers” (See col. 9).

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 1-2, 7-15, 17-23, 25-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,640,278 to Nolan et al in view of U.S Patent Application No. 2003/0033308 to Patel et al.

a. As per claims 1,9 and 21, Nolan et al teaches a method for configuration and management of storage resources in a storage network. Furthermore, Nolan et al teaches a method for communicating content to a plurality of clients, comprising the steps of: (a) providing multiple network attached storage (NAS) servers (See Col.6, lines 11-20); (b) storing content files on each NAS server for access by one or more clients (See col. 6, lines 55-65); (c) receiving a request for a content file from a client via a communication link (See col. 6, lines 63-67); However, Nolan et al failed to teach (d) selecting one of the NAS servers that stores the requested content file; (e) establishing a data stream between that client and the selected NAS server; and (f) providing the requested content file from the selected NAS to the requesting client via the data stream, independent of other NAS servers.

Patel et al teaches selecting one of the NAS servers that stores the requested content file; (e) establishing a data stream between that client and the selected NAS server; and (f) providing the requested content file from the selected NAS to the requesting client via the data stream, independent of other NAS servers (See page 4, paragraph [0063]).

It would have been obvious to one with ordinary skill in the art at the time the invention was made to incorporate selecting one of the NAS servers that stores the requested content file; (e) establishing a data stream between that client and the selected NAS server; and (f) providing the requested content file from the selected NAS to the requesting client via the data stream, independent of other NAS servers as taught by Patel et al in the claimed invention of Nolan et al in order to allow the intelligent distributed file system to utilize a data structure to track and manage detailed information about each file, including for example the device and block location

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of the file's data block, to permit different levels of replication and / or redundancy within the file system (See page 1, paragraph [0008]).

b. As per claim 2, Nolan et al in view of Patel et al teaches the claimed invention as described above. However, Nolan et al failed to teach wherein step (d) further includes the steps of determining if one of the NAS servers stores the requested content file, and if so, selecting that NAS server and performing steps (e) and (f).

Patel et al teaches the steps of determining if one of the NAS servers stores the requested content file, and if so, selecting that NAS server and performing steps (e) and (f) (See page 4, paragraph [0063]).

It would have been obvious to one with ordinary skill in the art at the time the invention was made to incorporate wherein step (d) further includes the steps of determining if one of the NAS servers stores the requested content file, and if so, selecting that NAS server and performing steps (e) and (f) as taught by Patel et al in the claimed invention of Nolan et al in order to allow the intelligent distributed file system to utilize a data structure to track and manage detailed information about each file, including for example the device and block location of the file's data block, to permit different levels of replication and / or redundancy within the file system (See page 1, paragraph [0008]).

c. As per claim 7, Nolan et al in view of Patel et al teaches the claimed invention as described above. However, Nolan et al failed to teach further includes the steps of: receiving multiple requests for content files from multiple clients; step (d) further includes the steps of: for

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each requesting client, selecting one of the NAS servers that stores the content file requested by that client; step (e) further includes the steps of: establishing a data stream between each requesting client and the selected NAS server for that client; and step (f) further includes the steps of: providing each requested content file from a selected NAS server to the requesting client via the corresponding data stream, independent of other NAS servers.

Patel et al teaches further includes the steps of: receiving multiple requests for content files from multiple clients; step (d) further includes the steps of: for each requesting client, selecting one of the NAS servers that stores the content file requested by that client; step (e) further includes the steps of: establishing a data stream between each requesting client and the selected NAS server for that client; and step (f) further includes the steps of: providing each requested content file from a selected NAS server to the requesting client via the corresponding data stream, independent of other NAS servers. (See page 4, paragraph [0063]).

It would have been obvious to one with ordinary skill in the art at the time the invention was made to incorporate further includes the steps of: receiving multiple requests for content files from multiple clients; step (d) further includes the steps of: for each requesting client, selecting one of the NAS servers that stores the content file requested by that client; step (e) further includes the steps of: establishing a data stream between each requesting client and the selected NAS server for that client; and step (f) further includes the steps of: providing each requested content file from a selected NAS server to the requesting client via the corresponding data stream, independent of other NAS servers as taught by Patel et al in the claimed invention of Nolan et al in order to allow the intelligent distributed file system to utilize a data structure to track and manage detailed information about each file, including for example the device and block

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location of the file's data block, to permit different levels of replication and / or redundancy within the file system (See page 1, paragraph [0008]).

d. As per claim 8, Nolan et al in view of Patel et al teaches the claimed invention as described above. Furthermore, it is inherent to one with ordinary skill in the art that multiple request are random in time as Network Attached Storage is optimized for storage transaction and support large amount of data.

e. As per claim 10, Nolan et al in view of Patel et al teaches the claimed invention as described above. However, Nolan et al failed to teach a switch for connecting the clients to the NAS servers in response to control signals, via a communication line.

Patel et al teaches a switch for connecting the clients to the NAS servers in response to control signals, via a communication line (See page 4, paragraph [0051]).

It would have been obvious to one with ordinary skill in the art at the time the invention was made to incorporate a switch for connecting the clients to the NAS servers in response to control signals, via a communication line as taught by Nolan et al in view of Patel in order to establish communication between the smart storage unit and the server (See page 4, paragraph [0051]).

f. As per claim 11, Nolan et al in view of Patel et al teaches the claimed invention as described above. However, Nolan et al failed to teach wherein the switch is configured to provide data routing between the NAS server and the clients.

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Patel et al teaches wherein the switch is configured to provide data routing between the NAS server and the clients (See page 4, paragraph [0051]).

It would have been obvious to one with ordinary skill in the art at the time the invention was made to incorporate wherein the switch is configured to provide data routing between the NAS server and the clients in order to establish communication between the smart storage unit and the server (See page 4, paragraph [0051]).

g. As per claim 12, Nolan et al in view of Patel et al teaches the claimed invention as described above. However, Nolan et al failed to teach wherein the management controller is connected to the clients and the NAS servers by the communication link via the switch.

Patel et al teaches wherein the management controller is connected to the clients and the NAS servers by the communication link via the switch (See page 4, paragraph [0051]).

It would have been obvious to one with ordinary skill in the art at the time the invention was made to incorporate wherein the management controller is connected to the clients and the NAS servers by the communication link via the switch as taught by Patel et al in the claimed invention of Nolan et al in order to establish communication between the smart storage unit and the server (See page 4, paragraph [0051]).

h. As per claim 13, Nolan et al in view of Patel et al teaches the claimed invention as described above. However, Nolan et al failed wherein the switch is configured to provide data routing between the NAS server and the clients in response to control signals from the management controller.

Patel et al teaches wherein the switch is configured to provide data routing between the NAS server and the clients in response to control signals from the management controller (See page 4, paragraph [0051]).

It would have been obvious to one with ordinary skill in the art at the time the invention was made to incorporate wherein the switch is configured to provide data routing between the NAS server and the clients in response to control signals from the management controller as taught by Patel et al in the claimed invention of Nolan et al in order to establish communication between the smart storage unit and the server (See page 4, paragraph [0051]).

i. As per claim 14, Nolan et al in view of Patel et al teaches the claimed invention as described above. Furthermore, Nolan et al teaches wherein at least one NAS server comprises one or more data storage devices and a storage controller for coordinating access to the data storage devices (See col. 5, lines 7-15)

j. As per claims 15 and 23, Nolan et al in view of Patel et al teaches the claimed invention as described above. Furthermore, Nolan et al teaches wherein at least one NAS server concurrently provides multiple data streams to multiple clients (See col. 7, lines 3-15).

k. As per claims 17 and 25, Nolan et al in view of Patel et al teaches the claimed invention as described above. Furthermore, Nolan et al teaches wherein management controller is configured to allow addition or removal of one or more NAS servers (See col. 25, lines 14-25).

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l. As per claim 18, Nolan et al in view of Patel et al teaches the claimed invention as described above. Furthermore, Nolan et al teaches wherein the management controller includes an NAS monitor module which monitors operation of each NAS server, and selects NAS servers to provide content files to clients (See col. 8, lines 25-35).

m. As per claim 19, Nolan et al in view of Patel et al teaches the claimed invention as described above. Furthermore, Nolan et al teaches wherein the management controller includes a client interface module which receives requests from clients and forwards the requests to the NAS monitor module (See col. 5, lines 7-29).

n. As per claim 20, Nolan et al view of Patel et al teaches the claimed invention as described above. Furthermore, Nolan et al teaches wherein each NAS server includes a data streaming interface module which provides service for reading content files from that NAS server and sending the data to the requesting client via a data stream (See col. 5, lines 30-35).

o. As per claim 22, Nolan et al view of Patel et al teaches the claimed invention as described above. Furthermore, Nolan et al teaches wherein at least one NAS server comprises one or more data storage devices and a storage controller for coordinating access to the data storage devices (See col. 6, lines 11-15).

p. As per claim 26, Nolan et al in view of Patel teaches the claimed invention as described above. Furthermore, Nolan et al teaches wherein each NAS server includes a data streaming

interface module which provides service for reading content files from that NAS server and sending the data to the requesting client via a data stream (See col. 5, lines 30-35 and col. 8, lines 24-35).

q. As per claim 27, Nolan et al in view of Patel teaches the claimed invention as described above. Furthermore, Nolan et al teaches mapping a set of the clients to each NAS server, to allow each NAS server to provide content files to the corresponding clients (See col. 9, lines 31-56).

10. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,640,278 to Nolan et al in view of U.S Patent Application No. 2003/0033308 to Patel et al. as applied to claim 1 above, and further in view of U.S. Patent No. 6,407,680 to Lai et al.

a. As per claim 3, Nolan et al in view of Patel teaches the claimed invention as described above. However, Noland et al in view of Patel failed to teach wherein: step (a) further includes the steps of obtaining identification information from each NAS server and maintaining that information; step (b) further includes the steps of maintaining content information corresponding to each identified NAS server; and step (d) further includes the steps of checking the content information to determine if one of the identified NAS servers stores the requested content file, and if so, selecting that NAS server and performing steps (e) and (f).

Lai et al teaches (a) further includes the steps of obtaining identification information from each NAS server and maintaining that information; step (b) further includes the steps of

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maintaining content information corresponding to each identified NAS server; and step (d) further includes the steps of checking the content information to determine if one of the identified NAS servers stores the requested content file, and if so, selecting that NAS server and performing steps (e) and (f) (See col. 13, lines 1-15).

It would have been obvious to one with ordinary skill in the art at the time the invention was made to incorporate (a) further includes the steps of obtaining identification information from each NAS server and maintaining that information; step (b) further includes the steps of maintaining content information corresponding to each identified NAS server; and step (d) further includes the steps of checking the content information to determine if one of the identified NAS servers stores the requested content file, and if so, selecting that NAS server and performing steps (e) and (f) as taught by Lai et al in the claimed invention of Nolan et al in view of Patel et al in order for the media transcoding engine to avoid having to fetch the original media content when a subsequent request for the same media content is received (See col. 11, lines 60-64).

11. Claims 4-6, 16 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,640,278 to Nolan et al in view of U.S Patent Application No. 2003/0033308 to Patel et al as applied to claim 1 above, and further in view of U.S. Patent No. U.S. Patent No. 6,466,978 to Mukherjee et al.

a. As per claims 4,16 and 24, Nolan et al in view of Patel et al teaches the claimed invention as described above. However, Nolan et al in view of Patel failed to teach wherein: step (a)

further includes the steps of providing one or more spare NAS servers; step (b) further includes the steps of storing content files on said spare servers; and the method further including the steps of: (g) detecting a fault in an NAS server currently providing requested content file to a client; (h) identifying a spare NAS server storing that requested content file; and (i) selectively re-establishing said data stream between that client and the spare NAS storing the requested content file, wherein that spare NAS server provides the content file to the client via the data stream, independent of other NAS servers.

Mukherjee et al teaches step (a) further includes the steps of providing one or more spare NAS servers; step (b) further includes the steps of storing content files on said spare servers; and the method further including the steps of: (g) detecting a fault in an NAS server currently providing requested content file to a client; (h) identifying a spare NAS server storing that requested content file; and (i) selectively re-establishing said data stream between that client and the spare NAS storing the requested content file, wherein that spare NAS server provides the content file to the client via the data stream, independent of other NAS servers (See col. 9, 32-45 and col. 13, lines 37-45).

It would have been obvious to one with ordinary skill in the art at time the invention was made to incorporate step (a) further includes the steps of providing one or more spare NAS servers; step (b) further includes the steps of storing content files on said spare servers; and the method further including the steps of: (g) detecting a fault in an NAS server currently providing requested content file to a client; (h) identifying a spare NAS server storing that requested content file; and (i) selectively re-establishing said data stream between that client and the spare NAS storing the requested content file, wherein that spare NAS server provides the content file

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to the client via the data stream, independent of other NAS servers as taught by Mukherjee et al in the claimed invention of Nolan et al in view of Patel et al in order to provide recovery from the failure of a server (See col. 9, lines 19-20).

b. As per claim 5, Nolan et al in view of Patel et al teaches the claimed invention as described above. However, Nolan et al in view of Patel failed to teach wherein step (e) further includes the steps of authenticating the identity of the client before providing the requested content file to the client.

Mukherjee et al teaches wherein step (e) further includes the steps of authenticating the identity of the client before providing the requested content file to the client (See col. 10, lines 39-40).

It would have been obvious to one with ordinary skill in the art at the time the invention was made to incorporate wherein step (e) further includes the steps of authenticating the identity of the client before providing the requested content file to the client as taught by Mukherjee et al in the claimed invention of Nolan et al in view of Patel et al in order to verify admission control to the network and provide access to the server (See col. 10, lines 40-45).

c. As per claim 6, Nolan et al in view of Patel et al teaches the claimed invention as described above. However, Nolan et al in view of Patel failed to teach wherein step (f) further includes the steps of receiving authentication information from that client, verifying the authentication information, and providing the requested content file only if the authentication information is verified.

Mukherjee et al teaches a multimedia file systems using file managers located on clients for managing network attached storage devices. Furthermore, Mukherjee et al teaches the steps of receiving authentication information from that client, verifying the authentication information, and providing the requested content file only if the authentication information is verified (See col. 10, lines 39-45).

It would have been obvious to one with ordinary skill in the art at the time the invention was made to incorporate the steps of receiving authentication information from that client, verifying the authentication information, and providing the requested content file only if the authentication information is verified as taught by Mukherjee et al in the claimed invention of Nolan et al in view of Patel et al in order to verify admission control to the network and provide access to the server (See col. 10, lines 40-45).

Conclusion

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Patent No. 6,654,807 to Farber et al teaches an Internet content delivery network.

13. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO**

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MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Djenane M. Bayard whose telephone number is (571) 272-3878. The examiner can normally be reached on Monday- Friday 5:30 AM- 3:00 PM..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rupal Dharia can be reached on (571) 272-3880. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Djenane Bayard

Patent Examiner


RUPAL DHARIA
SUPERVISORY PATENT EXAMINER